

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6843**

**BILL NUMBER: SB 190**

**NOTE PREPARED: Jan 25, 2007**

**BILL AMENDED:**

**SUBJECT:** Food Establishment Sanitary Requirements Exception.

**FIRST AUTHOR:** Sen. Drozda

**FIRST SPONSOR:**

**BILL STATUS:** CR Adopted - 1<sup>st</sup> House

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill removes an expiration date from a statute providing an exception to certain food establishment sanitary requirements for the sale of food at events benefiting certain organizations.

**Effective Date:** July 1, 2007.

**Explanation of State Expenditures:** The bill will leave an exemption to the food establishment sanitary standards in place for certain organizations that are exempt from the State Gross Retail Tax. This exemption would otherwise expire on January 1, 2008.

*Food Establishment Sanitary Standards:* The role of the Indiana State Department of Health (ISDH) in enforcement of the sanitary standards is limited to inspections on state-owned properties such as the State Fairgrounds. The State Fair Board currently requires all participants involved in the sale of food items to comply with the sanitary requirements and to be inspected. The provisions of this bill would be expected to have limited impact on the level of resources used by the ISDH to enforce the sanitary requirements for food establishments.

*Appropriation Background:* The State Department of Health administrative appropriations were made from the dedicated Tobacco Master Settlement Agreement Fund for FY 2006 and FY 2007. The source of the FY 2008 and FY 2009 ISDH administrative appropriations will be determined by the General Assembly. Revenues from fees and penalties collected by the ISDH are deposited in the state General Fund, with augmentation allowed in amounts not to exceed the additional revenue from fees or penalties received after July 1, 2003.

**Explanation of State Revenues:** This bill provides that certain nonprofit groups and organizations that have filed for an exemption from the State Gross Retail Tax with the Department of State Revenue (DOR) will continue to be exempt from the Department of Health sanitary requirements for food establishments. (The exemption specifies that the food to be sold to the final consumer must be at an event held for the benefit of the organization and that the organization have sales of food for no more than 30 days in a calendar year.) The fiscal impact to the state would be limited, if any.

Exempt organizations may waive the exemption and apply for a license. The State Department of Health reported that they do not track how many nonprofit organizations file waivers of the exemption with the Department. The Department does not charge a fee for organizations filing waivers of exemption.

*Background Information on Food Establishment Sanitary Standards Penalties:* Monetary penalties provided under the State Department of Health rules concerning sanitary requirements for food establishments promulgated at 410 IAC 7-23-1 include fines that have a maximum penalty of up to \$1,000 per day for noncompliance. Civil penalties collected are deposited in the state General Fund or local health department fund.

Certain violations may also be considered to be Class B misdemeanors. The maximum fine for a Class B misdemeanor is \$1,000. Criminal fines are deposited in the Common School Fund.

If cases are filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the judicial salaries fee (\$15), the public defense administration fee (\$3), the court administration fee (\$2), the judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

**Explanation of Local Expenditures:** Local health officers are responsible for the local enforcement of the sanitary requirements for food establishments. Enforcement actions may be one of two options. The local health officer may (1) furnish evidence to the local prosecutor or (2) file a report with the State Department of Health. This bill would continue to exempt certain nonprofit organizations, potentially relieving the local health officers from enforcement inspections of the State Department of Health rules.

A Class B misdemeanor is punishable by up to 180 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

**Explanation of Local Revenues:** Retail food establishments that are not exempt are required to comply with local licensing requirements for retail food establishments that include an annual fee. The State Department of Health reported that some counties waive the fee for charitable organizations but that this is not a statewide practice. If a local ordinance requires a license fee, this bill would result in the continuing loss of local license fee revenue after January 1, 2008. The amount of revenue affected by the provisions of this bill is not known.

If additional court actions occur and a guilty verdict is entered, local governments receive revenue from the following sources: The county general fund receives 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20%

of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

**State Agencies Affected:** State Department of Health.

**Local Agencies Affected:** Trial courts, local law enforcement agencies, local health officers.

**Information Sources:** State Department of Health.

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